

DIVISION OF WATER AND LAND DEVELOPMENT

FROM:

DATE:

FILE IN:

geo royalty contested case "

TO: INIT:

PLEASE:

REMARKS:

<input type="checkbox"/>	M. TAGOMORI
<input type="checkbox"/>	L. Nanbu
<input checked="" type="checkbox"/>	G. Akita
<input type="checkbox"/>	L. Chang
<input type="checkbox"/>	E. Lau
<input type="checkbox"/>	A. Monden
<input type="checkbox"/>	H. Young
<input type="checkbox"/>	T. Kam
<input type="checkbox"/>	G. Miyashiro
<input type="checkbox"/>	D. Lee
<input type="checkbox"/>	A. Yim

☐ See Me
☐ Call
☒ Review & Comment
☐ Take Action
☐ Investigate & Report
☐ Draft Reply
☐ Acknowledge Receipt
☐ Type Draft
☐ Type Final
☐ Xerox _____ copies
☐ File

REMARKS:

AG

Drawer 5
File # 23

✓ on hand

FOR YOUR:

— R. LOUI
— S. Kokubun

____ Approval
____ Signature
____ Information

492

WEL

PUNA GEOTHERMAL VENTURE

A Hawaii Partnership

RECEIVED

93 OCT 21 A 8: 09

October 18, 1993

DIV. OF WATER &
LAND DEVELOPMENT

DEPT. OF LAND & NATURAL RESOURCES
STATE OF HAWAII

93 OCT 18 P 4: 22

RECEIVED

Board of Land and Natural Resources
State of Hawaii
Kalanimoku Building, Room 310
1151 Punchbowl Street
Honolulu, Hawaii 96813
Attention: Chairman
Board of Land and Natural Resources

Dear Mr. Chairman:

Puna Geothermal Venture
Petition for Contest Case Hearing

This letter/petition is respectfully submitted by Puna Geothermal Venture, a Hawaii general partnership ("PGV"), which is engaged in the development of the State's geothermal resources and the operation of a geothermal power project in Puna, Hawaii.

During the regularly scheduled meeting of the Board of Land and Natural Resources ("Board") held on October 8, 1993, the Board considered, among other things, the appropriate methodology that it should adopt with respect to the determination of the value of the geothermal steam for purposes of calculating the geothermal royalty amount to be paid by PGV under its Geothermal Resources Mining Lease R-2, dated February 20, 1981. At or prior to the conclusion of the Board's meeting, PGV made a formal written request for a contested case hearing on the Board's decision. PGV made this request pursuant to Section 13-1-29 of Chapter 1 of Subtitle 1 of Title 13 of the Department of Land and Natural Resources ("Department") rules ("Rules").

PGV, in accordance with Section 13-1-29 of the Department's Rules, respectfully submits this petition for a contested case hearing and hereby states as follows:

1. The legal authority for PGV's request for a contested case hearing is Section 13-1-29 of Chapter 1 of Subtitle 1 of Title 13 of the Department's Rules and Hawaii Revised Statutes ("HRS") Chapter 91.

C:\WP51\DLNR\CONTEST2.018

2. PGV's interest that may be affected by the Board's action is direct and immediate in that it affects the manner and methodology by which the value of the geothermal steam from PGV's project is to be determined, and this value in turn will be used to calculate the geothermal royalty amount that PGV must pay under the Geothermal Resources Mining Lease R-2, dated February 20, 1981.

3. PGV is contesting the specific methodology adopted by the Board on the following grounds: (i) the methodology adopted by the Board violates and is directly contrary to the provisions set forth in the Geothermal Resources Mining Lease R-2 governing the calculation of geothermal royalties payable thereunder; (ii) the Board's action in adopting such methodology violates the provisions of the Hawaii Administrative Procedure Act, HRS Chapter 91; and (iii) such methodology does not comport with the generally accepted approaches (including the approach used by the U.S. Government) used in the U.S. geothermal industry for determining the value of geothermal steam in connection with the ultimate calculation of the appropriate amount of geothermal royalty payments.

4. The basic facts involved are as set forth above, and the issues raised are set forth in Paragraph 3 above.

5. The relief that PGV is seeking or otherwise deems itself entitled is either (i) the adoption by the Board of the federal "netback" method for the calculation of geothermal royalties set forth in the applicable federal regulations, or (ii) the adoption by the Board of a methodology for the determination of the value of such geothermal steam that represents a fair, just and equitable approach for both the State and PGV and that will encourage the continued development and operation of Hawaii's geothermal resources by the private sector in accordance with, among other things, the Hawaii State Plan, especially HRS Section 226-18.

PGV is more than willing to continue to work with the Board, the Department and the Department's staff to resolve this matter amicably and in a manner that is ultimately mutually satisfactory and beneficial to all parties concerned. PGV also wishes to express its appreciation for the continuing assistance that the Board and the Department have rendered to PGV during the course of the development and operation of its Puna project.

Sincerely yours,


Steven E. Morris

Vice President and General Manager

cc: Gerald A. Sumida, Esq.

PROOF OF RECEIPT

Received from Puna Geothermal Original Petition for Contest Case Hearing

Dorothy Chun
Name DOROTHY CHUN

Secretary
Title

Oct. 18, 1993
Date

RECEIVED
93 OCT 18 2 41 22
DEPT. OF LAND & NATURAL RESOURCES
STATE OF HAWAII

FLOOD CONTROL & MINERAL RESOURCE BRANCH
Division of Water and Land Development

9/93

FROM: Janet

DATE: 10/12/93

FILE IN: Division 5
File # 23

TO:

INITIAL:

PLEASE:

REMARKS:

 G. AKITA
 L. Choo
 T. Kam
 H. Young
 S. Yong
 C.P. Chang
 Y.F. Xu
 T. Nakama
 J. Swift
 J. Florez
 M. Tanouye
 C. D'Araujo

 See Me
 Call
 Review & Comment
 Take Action
 Investigate & Report
 Draft Reply
 Acknowledge Receipt
 Type Draft
 Type Final
 Xerox copies

Chis -
Please file "geo royalty
contested case"
Thanks,
Janet

FOR YOUR:

 M. TAGOMORI
 L. Nanbu
 L. CHANG
 E. LAU
 A. Monden
 G. Miyashiro
 D. Lee
 A. Yim

 Approval
 Signature
 Information
 File

REQUESTED BY:

DATE

PUNA GEOTHERMAL VENTURE

A Hawaii Partnership

Rec'd
by Chair
10/8/93
Lehua

STEVEN E. MORRIS
Vice-President & General Manager

October 8, 1993

Mr. Keith Ahue
Director
Dept. of Land and Natural Resources
830 Punchbowl Street
Honolulu, Hawaii 96813

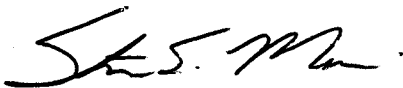
Dear Mr. Ahue:

On behalf of Puna Geothermal Venture, I hereby request that the Board of Land and Natural Resources conduct a contested case hearing on the Board's decision on geothermal royalties. This request is pursuant to Section 13-1-29 of the Department of Land and Natural Resources contested case rules.

We will shortly submit our petition requesting the contested case hearing after this meeting.

Thank you.

Very truly yours,



Steven E. Morris

PUNA GEOTHERMAL VENTURE

A Hawaii Partnership

October 4, 1993

Board of Land and Natural Resources
State of Hawaii
Kalanimoku Building, Room 310
1151 Punchbowl Street
Honolulu, Hawaii 96813
Attn: Chairman
Board of Land and
Natural Resources

HAND DELIVER

Dear Mr. Chairman:

Puna Geothermal Venture:
Petition for Contest Case Hearing

This letter/petition is respectfully submitted by Puna Geothermal Venture, a Hawaii general partnership ("PGV"), which is engaged in the development of the State's geothermal resources and the operation of a geothermal power project in Puna, Hawaii.

During the regularly scheduled meeting of the Board of Land and Natural Resources ("Board") held on September 24, 1993, the Board considered, among other things, the appropriate methodology that it should adopt with respect to the determination of the value of the geothermal steam for purposes of calculating the geothermal royalty amount to be paid by PGV under its Geothermal Resources Mining Lease R-2, dated February 20, 1981. At or prior to the conclusion of the Board's meeting, PGV made a formal written request for a contested case hearing on the Board's decision. PGV made this request pursuant to §13-1-29 of Chapter 1 of Subtitle 1 of Title 13 of the Department of Land and Natural Resources ("Department") rules ("Rules").

It appears, however, to be somewhat unclear as to whether the Board formally adopted a specific methodology for the purpose of determining the value of such geothermal steam as mentioned above, or instead orally requested a further response from PGV as to PGV's preference regarding the two methodologies that the Board discussed during its meeting. PGV believes that this unclarity has not to date been resolved.

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33 OCT 4

P 3: 29

DEPT. OF LAND
& NATURAL RESOURCES
STATE OF HAWAII

93 OCT 4 P 3: 42

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DIV. OF WATER &
LAND DEVELOPMENT

Board of Land and Natural Resources
October 4, 1993
Page 2

Hence, and since PGV strongly wishes to preserve its rights to a contested case hearing with respect to any final Board decision adopting such a methodology, PGV respectfully provides the statements below in compliance with the requirements of §13-1-29 of the Department's Rules. If, however, the Board's action at its September 24, 1993, meeting on this matter was not a formal adoption of a particular methodology, then PGV will respectfully await the Board's final action on this matter before proceeding further, if appropriate and necessary.

Based on the foregoing, PGV, in accordance with §13-1-29 of the Department's Rules, respectfully submits this petition for a contested case hearing and hereby states as follows:

1. The legal authority for PGV's request for a contested case hearing is §13-1-29 of Chapter 1 of Subtitle 1 of Title 13 of the Department's Rules and Hawaii Revised Statutes ("HRS") Chapter 91.

2. PGV's interest that may be affected by the Board's action is direct and immediate in that it affects the manner and methodology by which the values of the geothermal steam from PGV's project is to be determined, and this value in turn will be used to calculate the geothermal royalty amount that PGV must pay under the Geothermal Resources Mining Lease R-2, dated February 20, 1981.

3. PGV is contesting the specific methodology adopted by the Board on the following grounds: (i) the methodology adopted by the Board violates and is directly contrary to the provisions set forth in the Geothermal Resources Mining Lease R-2 governing the calculation of geothermal royalties payable thereunder; (ii) the Board's action in adopting such methodology violates the provisions of the Hawaii Administrative Procedure Act, HRS Chapter 91; and (iii) such methodology does not comport with the generally accepted approaches (including the approach used by the U.S. Government) used in the U.S. geothermal industry for determining the value of geothermal steam in connection with the ultimate calculation of the appropriate amount of geothermal royalty payments.

4. The basic facts involved are as set forth above, and the issues raised are set forth in Paragraph 3 above.

Board of Land and Natural Resources

October 4, 1993

Page 3

5. The relief that PGV is seeking or otherwise deems itself entitled is either (i) the adoption by the Board of the federal "netback" method for the calculation of geothermal royalties set forth in the applicable federal regulations, or (ii) the adoption by the Board of a methodology for the determination of the value of such geothermal steam that represents a fair, just and equitable approach for both the State and PGV and that will encourage the continued development and operation of Hawaii's geothermal resources by the private sector in accordance with, among other things, the Hawaii State Plan, especially HRS §226-18.

As mentioned above, PGV respectfully submits this petition on the basis that the Board's action at its September 24, 1993, meeting constituted a formal adoption of a particular methodology. If, however, this was not the case (as reflected in the minutes of the Board's meeting that the Board formally approves and adopts), then PGV will be willing to withdraw this petition.

PGV is more than willing to continue to work with the Board, the Department and the Department's staff to resolve this matter amicably and in a manner that is ultimately mutually satisfactory and beneficial to all parties concerned. PGV also wishes to express its appreciation for the continuing assistance that the Board and the Department have rendered to PGV during the course of the development and operation of its Puna project.

Sincerely yours,



Steven E. Morris
Vice President and General Manager

cc: Gerald A. Sumida, Esq.